

**DETERMINATION REGARDING PUBLIC WORKS DURING
EXCESSIVE UNEMPLOYMENT**

The Labor and Industrial Relations Commission has been advised by the Division of Labor Standards that the State of Missouri is in a period of excessive unemployment for the purposes of § 290.550 through § 290.580 RSMo 2000.

Section 290.550(3) RSMo 2000 defines "excessive unemployment" as follows:

"A period of excessive unemployment", any month immediately following two consecutive calendar months during which the level of unemployment in the state has exceeded five percent as measured by the United States Bureau of Labor Statistics in its monthly publication of employment and unemployment figures.

Section 290.560 RSMo 2000 provides:

Whenever there is a period of excessive unemployment in this state, every person who is charged with the duty, either by law or contract, of constructing or building any public works project or improvement for the state or any political subdivision, municipal corporation or other governmental unit thereof shall employ only Missouri laborers and laborers from nonrestrictive states on such project or improvement, and every contract let by any such person shall contain a provision requiring that such labor be used, except that other laborers may be used when Missouri laborers or laborers from nonrestrictive states are not available, or are incapable of performing the particular type of work involved, if so certified by the contractor and approved by the contracting officer.

Section 290.550(1) RSMo 2000 provides:

"Laborers from nonrestrictive states", persons who are residents of a state which has not enacted state laws restricting Missouri laborers from working on public works projects in that state, as determined by the labor and industrial relations commission.

The Division of Labor Standards requested an updated list of states that are considered nonrestrictive regarding Missouri's prevailing wage law in time of excessive unemployment. In accordance with the above statutes, the Labor and Industrial Relations Commission and its staff have conducted research and found the following states have restrictions, of some type, on using nonresidents on public works projects.

Alaska	AK ST § 36.10.007
Arizona	A.R.S. § 34-302
California	Cal Lab Code § 2015
Colorado	C.R.S. 8-17-101, 102
Connecticut	C.G.S.A. § 31-52, 52a
Delaware	29 Del. C. § 6962
District of Columbia	D.C. Code Ann. § 2-219.03
Florida	Fla. Stat. § 255.04

Idaho	Idaho Code § 44-1001
Illinois	30 ILCS 560/3, 570/3
Iowa	Iowa Code § 73.3
Maine	26 M.R.S.A. § 1301
Massachusetts	Mass. Ann. Laws ch. 149, § 26
Mississippi	Miss. Code Ann. § 31-5-17
Montana	Mont. Code Ann. § 18-2-403
Nevada	Nev. Rev. Stat. Ann. § 338.130
New Jersey	N.J. Stat. Ann. § 34:9-2
North Dakota	N.D. Cent. Code § 43-07-20
Oklahoma	Okla. Stat. Tit. 40, § 193
South Dakota	S.D. Codified Laws Ann. § 5-19-6
U.S. Virgin Islands	V.I. Code Ann. Tit. 31, § 272
West Virginia	W. Va. Code § 5A-3-37
Wyoming	Wyo. Stat. § 16-6-203

Alabama, Arkansas, Hawaii, Pennsylvania, Utah (Utah Code Ann. § 55-3-33), and Wisconsin (Wis. Stat. Ann. § 101.43) had similar provisions that have been repealed.

The remaining states, some having limited restrictions on architects, bonding companies, or contractors, can be defined as nonrestrictive within the meaning of § 290.550.1 RSMo (or possibly excluded pursuant to 290.565 RSMo 2000).

The Commission was also asked to determine whether there are any restrictions on laborers from other countries. Section 290.550(1) RSMo only allows the Commission to make a determination as to what persons qualify as "[l]aborers from nonrestrictive states" The term "state" is defined by Section 1.020(17) RSMo 2000 as follows:

A "State", when applied to any of the United States, includes the District of Columbia and the territories, and the words "United States" includes such district and territories;

Consequently, the Commission does not have the authority to determine whether laborers from other countries are "laborers from nonrestrictive states."

Therefore, we determine that the following states do not restrict the work of out-of-state employees/laborers for the purposes of § 290.550 through § 290.580 RSMo 2000.

They are:

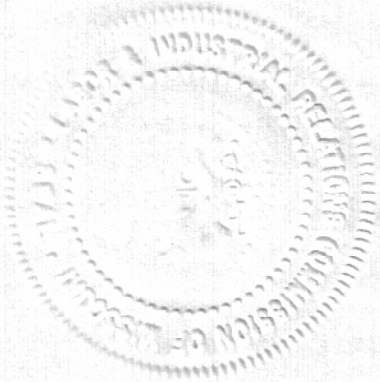
Alabama, American Samoa, Arkansas, Georgia, Guam, Hawaii, Indiana, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Nebraska, New Hampshire, New Mexico, New York, North Carolina, Northern Mariana Islands, Ohio, Oregon, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, Tennessee, Texas, Utah, Vermont, Virginia, Washington, and Wisconsin.

We certify that the Commission and its staff have made a diligent effort to insure the accuracy of this determination, although, due to the limitation of the database, very recent changes in state statutes may not be reflected.

The above determination shall remain in effect unless and until certified information to the contrary is presented and until the State of Missouri is no longer in a period of excessive unemployment.

Given at Jefferson City, State of Missouri, this 10th day of January 2008.

LABOR AND INDUSTRIAL RELATIONS COMMISSION



William F. Ringer
William F. Ringer, Chairman

Alice A. Bartlett
Alice A. Bartlett, Member

John J. Hickey
John J. Hickey, Member

Attest:
Danella M. Hoffmann
Secretary